IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 22429 of 2007(T)

PETITIONER:

S.D.SREENIVASAN,S/O.N.DENAN,AGED 53 YEARS
WORKING AS SENIOR ASSISTANT, K.S.R.T.C,
CHEIF OFFICE,TRANSPORT BHAVAN FORT,
THIRUVANANTHAPURAM AND NOW RESIDING AT "KARTHIKA"
CHOWARA, CHOWARA PO,VIA BALARAMAPURAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS:

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1. THE STATE OF KERALA REP. BY THE
PRINCIPAL SECRETARY TO THE GOVERNMENT,
TRANSPORT (A) DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE KERALA STATE ROAD TRANSPORT
CORPORATION, TRANSPORT BHAVAN, FORT,
THIRUVANANTHAPURAM,REP.BY ITS MANAGING DIRECTOR.

3. THE KERALA TRANSPORT DEVELOPMENT
FINANCE CORPORATION LTD.,TRIDA, COMMERCIAL COMPLEX
PALAYAM, THIRUVANANTHAPURAM.

4. SMT. NIRMALA DEVI, CHIEF MANAGER, K.T.D.F.C.
TRANS TOWERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM.

5. C.S.SREEKUMARAN NAIR,
CHIEF MANAGER, K.T.D.F.C., TRANS TOWERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM.

6. SMT. D. AJITHAKUMARI, MANAGER,
K.T.D.F.C, TRANS TOWERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM.

BY ADV.SRI.K.R.B.KAIMAN (SR.)
SRI.G.PRABHAKARAN, SC-KSRTC
GOVERNMENT PLEADER SRI.BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.22429 of 2007-T

Dated this the 23rd day of July, 2007.

J U D G M E N T

The petitioner is a Senior Assistant of the Kerala State Road Transport Corporation. He was working on deputation, in the Kerala Transport Development Finance Corporation Ltd. Similarly placed employees of the KSRTC, who are his colleagues were already absorbed in the KTDFC. The petitioner's case was also favourably considered later by the Corporation. So, he approached this court by filing O.P.32501 of 2001. The said original petition was disposed of with the following directions:

> "The contention of the petitioner that he is entitled to be absorbed to the service of the 3rd respondent-Corporation is not legally supportable. It is true that the petitioner has given his willingness to be absorbed to the 3rd respondent-Corporation. He being serving the 3rd respondent Corporation originally as a Cashier and thereafter promoted and he was repatriated to the 2nd respondent, the Government should have considered his case and pass appropriate orders. Therefore, if the 3rd respondent is willing to absorb the petitioner, nothing prevents them from reconsidering the matter and inform the Government. A representation to this effect shall be made by the petitioner to the 3rd respondent and also to the Government within a period of one month from the

date of receipt of a copy of this judgment, whereupon both the 3rd respondent and the Government shall consider the matter and pass appropriate orders."

2. This court held that the petitioner has no legal right to be absorbed in the KTDFC. It is also clarified that if the said Corporation is willing and if it informs the Government of the same, the Government will re-consider the matter. But, pursuant to the said direction, the KTDFC took the stand that in view of the Rules of the Corporation which came into force with effect from 22-2-2006, the petitioner cannot be absorbed. The said stand is reiterated by the Government in Ext.P16 also. This writ petition is filed, praying inter alia, for a direction to the 3rd respondent, to absorb the petitioner in its service. He also challenges, the adverse orders passed by the Corporation and the Government. In view of Ext.P10, the claim of the petitioner for absorption, is subject to the willingness of the 3rd respondent. In view of the new Rules, the Corporation is not willing absorb the petitioner. Therefore, the petitioner has no legal right to claim absorption. Further, this court under Article 226 of the Constitution of India cannot compel a company to absorb an employee which do not require the service of such employee.

Accordingly, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS